



STATE OF NEVADA
COMMISSION ON ETHICS
<http://ethics.nv.gov>

Thursday, July 12, 2007
10:10 a.m.

Nevada Commission on Ethics
3476 Executive Pointe Way, Suite 10
Carson City, Nevada 89706

and, via telephone conference call:

Nevada Commission on Ethics
2030 E. Flamingo Road, Suite 125
Las Vegas, Nevada 89119

MINUTES

These minutes constitute a summary of the above proceedings of the Nevada Commission on Ethics.
A verbatim transcript of the open session proceedings, prepared by a certified court reporter,
is available for inspection at the Commission offices.

Commission Members and Staff Present (by phone in Northern Nevada):
Jim Kosinski, Esq., Chairman; George Keele, Esq.; Rick Hsu, Esq.;
Caren Jenkins, Esq.; Adriana G. Fralick, Esq., General Counsel;
Emily H. Nunez, Office Manager

Commission Members and Staff Present (by phone in Southern Nevada):
Timothy Cashman; Randall Capurro; William Flangas, P.E.;
Matt C. DiOrio, Senior Investigator;
Tami DeVries, Research Analyst

Chairman Kosinski called the meeting to order at 10:10 a.m., Thursday, July 12, 2007.

Agenda Item 1 – Closed Session

Closed session pursuant to NRS 241.015(2)(b) to confer with legal counsel regarding potential litigation in which the commission has supervision, control, jurisdiction, or advisory power, and if necessary to deliberate toward a decision on a matter.

Agenda Item 2 – If necessary, to take any action as a result of Agenda Item 1.

Chairman Kosinski opened this agenda item, an open session if necessary, to take any action as a result of agenda item 1. Commissioner Jenkins moved that the Commission approve the agreement signed on or about June 27, 2007, between the Commission and L. Patrick Hearn. Commissioner Hsu seconded the motion. The motion was put to a vote and passed unanimously.

Agenda Item 3 – Open session regarding the recruitment of the Executive Director

Chairman Kosinski opened this agenda item for discussion and possible action regarding the recruitment for the position of Executive Director.

Chairman Kosinski brought up the issue of supervision as it is outlined in the job announcement under the general duties of the executive director. He stated that he was never really comfortable with the commission's decision to give the executive director any authority over the general counsel, although he believes it was always emphasized as an administrative control with no control of the legal opinions rendered by the general counsel. Chairman Kosinski suggested that the Commission remove the policy that gives authority to the executive director over the general counsel, because he believes the counsel should be reporting to the full Commission. Chairman Kosinski also stated that if there were problems between the executive director and general counsel, they could bring the issue to the Chairman or the entire Commission to resolve the problem.

Commissioner Hsu stated that the Commission staff does include a general counsel, and as an attorney who represents an organization, whether it be a corporation, a state agency, or any other kind of organization, that attorney's duties, under *our* attorney's rules are to that organization, but through it's authorized representatives of the organization. And so, he stated, that under the rules of professional responsibility for attorneys, the attorney needs to take direction from essentially like the CEO, and if there's a problem, the attorney can go forward to the board of directors, or in this case, the Commission as a whole.

Commissioner Keele stated that if the chair wants to contact the general counsel, the chair has no responsibility to clear that through the executive director. He then recommended that the wording on the job announcement be "and supervise staff" or "generally supervises staff," and remove the words "which includes the commission's general counsel," and then the Commission should revisit this issue with a memo from the general counsel to let the Commission know what the reporting responsibility is in the opinion of counsel, and if necessary the attorney general at some point in the future. Commissioner Hsu agreed that certainly the general counsel can talk to

the chairman directly or any individual members on legal matters under the attorney-client privilege on privileged matters. For the purposes of moving the agenda item along, Commissioner Cashman requested that the Commission revisit this issue in the future, because he has some organizational concerns.

The Commission then discussed the recruiting process, including the minimum qualifications and background checks. Commissioner Keele moved that the Commission open the position for recruitment of the executive director position. Commissioner Capurro seconded the motion. The motion was put to a vote and passed unanimously. Chairman Kosinski closed this agenda item.

Agenda Item 4 – Open session for Chairman’s Comments

No comment was made. Chairman Kosinski moved to the next item.

Agenda Item 5 – Open session for public comment.

Chairman Kosinski opened this item for public comment. No public comment was made, and this agenda item was closed.

Chairman Kosinski adjourned the meeting at 11:20 a.m.

Minutes transcribed by:

Minutes approved August 29, 2007

Emily H. Nunez, Office Manager

Jim Kosinski, Esq., Chairman